

1 Noelle E. Dwarzski, WSBA No. 40041  
2 McKENZIE ROTHWELL BARLOW  
3 & COUGHRAN, P.S.  
4 1325 Fourth Ave Suite 910  
5 Seattle, WA 98101  
6 Telephone: (206) 224-9900  
7 Facsimile: (206) 224-9820  
8 E-mail: noelled@mrbclaw.com

7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 BOARD OF TRUSTEES OF THE  
11 AUTOMOTIVE MACHINISTS PENSION  
12 TRUST,

13 Plaintiff,

14 v.

15 ROSS ISLAND SAND AND GRAVEL  
16 COMPANY, an Oregon Corporation,  
17 Oregon Registration No. 029100-16, WA  
18 UBI No. 409004895, WA Contractor's  
19 License No. ROSSISG197LE,

20 Defendant.

21 NO.

22 COMPLAINT FOR BREACH OF  
COLLECTIVE BARGAINING  
AGREEMENT AND DELINQUENT  
CONTRIBUTIONS (ERISA)

23 For their complaint, plaintiffs allege as follows:

24 **I. PARTIES AND JURISDICTION**

25 1. Plaintiff is the Board of Trustees of a joint labor-management trust fund  
26 created under Section 302(c) of the Labor Management Relations Act, (hereafter referred to  
27 as the Act), 29 U.S.C. 186(c) and governed by the Employee Retirement Income Security Act  
28 of 1974, 29 U.S.C. 1001, et seq. as amended (hereafter ERISA).

29 COMPLAINT FOR BREACH OF COLLECTIVE  
30 BARGAINING AGREEMENT – 1

2. Ross Island Sand and Gravel Company ("Ross Island") is an Oregon corporation having its principal offices located at 4315 SE McLoughlin Blvd., Portland, OR 97282.

3. Jurisdiction is conferred on this Court by ERISA § 502, 29 U.S.C. § 1132.

4.       Venue is appropriate under ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2), because the Trust is administered in King County, Washington.

## II. CLAIM FOR RELIEF

5. On or about March 2008, A. Charles Steinwandel, president of Ross Island, signed a collective bargaining agreement (“CBA”) with the International Association of Machinists and Aerospace Workers, District Lodge No. 24.

6. At no time has Ross Island attempted to withdraw from the Union or terminate the CBA.

7. At all material times, Ross Island was, and is, obligated to perform in accordance with the terms of the CBA, which incorporates the terms of the Trust Agreement governing the Automotive Machinists Pension Trust, and submit contributions to the Automotive Machinists Pension Trust on behalf of its employees performing work covered by the CBA.

8. The employer has failed to submit the contributions in accordance with the CBA and Trust documents, thereby breaching ERISA §§ 502 and 515, 29 U.S.C. §§ 1132 and 1145.

9. Ross Island has employed employees for whom employee benefit contributions are due under this obligation but has failed and refuses to make the required monthly

## COMPLAINT FOR BREACH OF COLLECTIVE BARGAINING AGREEMENT – 2

MCKENZIE ROTHWELL BARLOW  
& COUGHRAN, P.S.  
1325 FOURTH AVE., SUITE 910  
SEATTLE, WA 98101  
(206) 224-9900

1 contributions for such employees to the plaintiff Trust Fund for the delinquent period of July  
2 2018 through current.

3 10. Ross Island owes \$80,450.28 in contributions for the delinquent period of July  
4 2018 through January 2019.

5 11. An unknown amount of contributions are due for the delinquent period of  
6 February 2019 through current, in an amount to be proven on motions or at trial.

7 12. Under the terms of the trust agreements creating the trust funds and ERISA  
8 § 502(g)(2), 29 U.S.C. § 1132(g)(2), Ross Island is obligated to pay liquidated damages,  
9 interest, reasonable attorney's fees, and costs and expenses of suit.

10 13. For the delinquent months of July 2018 through January 2019, Ross Island  
11 owes \$16,090.06 in liquidated damages, \$2,441.76 in interest (calculated through February  
12 14, 2019), and \$700 in referral attorney fees.

13 14. An unknown amount of liquidated damages, interest, and attorney fees are due  
14 for February 2019 through current. The total amount owed will be proven on motions or at  
15 trial.

16 ////

17 ////

18 ////

19 ////

20 ////

21 ////

22 ////

### COMPLAINT FOR BREACH OF COLLECTIVE BARGAINING AGREEMENT – 3

8200 548 ub061201

McKENZIE ROTHWELL BARLOW  
& COUGHRAN, P.S.  
1325 FOURTH AVE., SUITE 910  
SEATTLE, WA 98101  
(206) 224-9900

1                   WHEREFORE, the plaintiff prays for judgment against defendant Ross Island Sand  
2 and Gravel Co. as follows:

3                   (a) For the full amount of contributions found to be owing to the plaintiff Trust Fund  
4 to the date of the judgment herein;  
5                   (b) For liquidated damages, interest, attorney fees, and costs of expenses of suit; and  
6                   (c) For such other and further relief as the Court deems just and equitable.

7                   DATED THIS 14th day of February, 2019.

8                   /s/Noelle E. Dwarzski  
9                   Noelle E. Dwarzski, WSBA # 40041  
10                  McKENZIE ROTHWELL BARLOW  
11                  & COUGHRAN, P.S.  
12                  Attorneys for Plaintiff Trust  
13                  1325 Fourth Ave., Suite 910  
14                  Seattle, WA 98101

15  
16  
17  
18  
19  
20  
21  
22

COMPLAINT FOR BREACH OF COLLECTIVE  
BARGAINING AGREEMENT – 4

8200 548 ub061201

McKENZIE ROTHWELL BARLOW  
& COUGHRAN, P.S.  
1325 FOURTH AVE., SUITE 910  
SEATTLE, WA 98101  
(206) 224-9900